

Remarks

In the non-final Office Action dated October 6, 2008, the following grounds of rejection are presented: claims 1-10 stand rejected under 35 U.S.C. § 102(b) over Arnaud (U.S. Patent No. 4,989,242); and claims 11-17 stand rejected under 35 U.S.C. § 103(a) over the '242 reference in view of Chow (U.S. Patent No. 6,836,149). In the following discussion, Applicant does not acquiesce in any regard to averments in this Office Action (unless Applicant expressly indicates otherwise).

Applicant respectfully traverses the § 102(b) and § 103(a) rejections because the cited Arnaud reference either alone or in combination with the Chow reference lacks correspondence. For example, neither of the asserted references teaches the claimed invention "as a whole" (§ 103(a)) including aspects regarding, *e.g.*, a peak detector, a voltage controllable current and a hysteresis equipped circuit and their related functionality. Because neither reference teaches these aspects, no reasonable interpretation of the asserted prior art, taken alone or in combination, can provide correspondence. As such, the rejections fail.

More specifically, the cited portions of the '242 reference are not arranged as required by the claimed invention. *See, e.g.*, M.P.E.P. § 2131. As a first example, the Office Action erroneously asserts that microphone M of the '242 reference corresponds to Applicant's peak detector; however, the '242 reference does not teach that microphone M provides a voltage to compressor GE (*i.e.*, the asserted compressor) that is proportional to the average voltage at a differential input of microphone M, as does the peak detector of the claimed invention. In addition, the Office Action cites to various portions of the '242 reference in alleging correspondence to Applicant's peak detector that are not directed to the function of microphone M, but instead discuss the functionality of various components of the '242 reference that are located after compressor GE in the processing chain (*i.e.*, these components do not provide any signal to compressor GE as does the claimed peak detected). For example, the Office Action cites to integrator IE of Figure 1, which is not part of microphone M and which is located after compressor GE (*see* the rejection of claim 2), to Col. 4:15-20 which discusses the gain variation of the compressor GE (*see* the rejection of claim 3), and to Col. 7:43-67 and Col. 8:30-60 which discuss the functions of the logic and control circuit of Figure 2, which is after the compressor GE in the processing chain (*see* the rejections of claims 4 and 6-7). As a

second example, converter 31 (*i.e.*, the asserted voltage controllable current source) is taught by the '242 reference as being part of attenuator ATE (*see, e.g.*, Figures 2 and 3 and Col. 4:56-57), which does not provide a trim current to hysteresis HYST1 (*i.e.*, the asserted hysteresis circuit), which is taught by the '242 reference as being part of the logic and control circuit of Figure 2. As such, converter 31 does not correspond to Applicant's voltage controllable current source and hysteresis HYST1 does not correspond to Applicant's hysteresis circuit because hysteresis HYST1 does not adjust its hysteresis characteristics responsive to a trim current provided by converter 31.

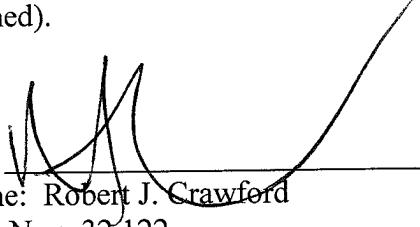
Applicant further traverses § 103 rejection of claims 11-17 because the cited references teach away from the Office Action's proposed combination. Consistent with the recent Supreme Court decision, *M.P.E.P.* § 2143.01 explains the long-standing principle that a § 103 rejection cannot be maintained when the asserted modification undermines either the operation or the purpose of the main ('149) reference - the rationale being that the prior art teaches away from such a modification. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1742 (2007) ("[W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious."). In this instance, the '149 reference is directed to control circuitry for an LCD display (*see, e.g.*, Figure 1 and the abstract) whereas the '242 reference is directed to a control device for processing audio signals in a telephone. The cited references are wholly unrelated to each other and, as such, they teach away from the Office Action's proposed combination. Applicant submits that further discussion regarding the impropriety of the Office Action's proposed combination of the cited references is unnecessary at this time due to the clear lack of correspondence between the '242 reference and the claimed invention as discussed above.

In view of the above, Applicant believes that each of the rejections is improper and should be withdrawn and that the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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